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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

RENAE JOY SWAIM, as Special  
Administrator of the Estate of Clinton Lee  
Swaim; RENAE JOY SWAIM, an individual;  
CLINTON THOMAS SWAIM, Jr., an  
individual; and RENAE JOY SWAIM, as  
parent and custodian of minor K.R.S.;  
collectively,

Plaintiffs,

v.

DAVID ATHERTON, an individual; MATT  
BOWMAN, an individual; DAIKI "SAM"  
BRANCH, an individual; JAMES  
CAMERON, an individual; VIVIAN DAVIS,  
an individual; ISAAC FLORES, an individual;  
JOEL GOMEZ, an individual; CHRIS  
HENRY, an individual; SAMANTHA  
LYONS, an individual; ERICK MCBRIDE,  
an individual; RICK MEIER, an individual;  
BRAD MITCHELL, an individual; LUIS  
OROZCO, an individual; LACEY PATIGA,  
an individual; NICHOLAS PATIGA, an  
individual; BRANDON TAYLOR, an  
individual; TANNER TROUT, an individual;  
JOHN WEST, an individual; and DOES I to  
X, inclusive; collectively,

Defendants.

Case No.: 3:21-cv-00502-ART-CSD

**JOINT STATUS REPORT**

GALLIAN WELKER & ASSOCIATES, L.C.  
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**JOINT STATUS REPORT**

Plaintiffs RENAE JOY SWAIM, as (1) Special Administrator of the Estate of Clinton Lee Swaim, (2) individually, and (3) as parent and custodian of minor K.R.S, and CLINTON THOMAS SWAIM, Jr. (collectively, “Plaintiffs”), by and through their attorneys of the law firm of GALLIAN WELKER & ASSOCIATES, L.C., and Defendants<sup>1</sup> DAVID ATHERTON; MATT BOWMAN; DAIKI “SAM” BRANCH; JAMES CAMERON, VIVIAN DAVIS; ISAAC FLORES; JOEL GOMEZ; CHRIS HENRY; SAMANTHA LYONS; ERICK MCBRIDE; RICK MEIER; BRAD MITCHELL; LUIS OROZCO; LACEY PATIGA; NICHOLAS PATIGA; BRANDON TAYLOR; TANNER TROUT; and JOHN WEST (collectively, “Defendants”), by and through their counsel, AARON D. FORD, Attorney General, and First Assistant Attorney General Craig A. Newby, Esq., hereby submit this Joint Status Report.

**I. PROCEDURAL HISTORY**

1. On December 7, 2021, Plaintiffs filed their Complaint [ECF No. 1], initiating this action.

2. On January 7, 2022, DPBH filed its Motion to Dismiss, pursuant to Fed. R. Civ. P. 12(b)(1) [ECF No. 6], to which Plaintiffs’ Response [ECF No. 7] and Defendants’ Reply in Support [ECF No. 8] were each timely filed.

3. On March 14, 2022, nine (9) named Defendants filed their Motion to Dismiss, pursuant to Fed. R. Civ. P. 12(b)(6), to which Plaintiffs’ Response [ECF No. 17] and Defendants’ Reply in Support [ECF No. 18] were each timely filed.

4. On May 6, 2022, the Parties filed their Joint Conference Report and Stipulated Discovery Plan and Scheduling Order [ECF No. 22], which was accepted and ordered by the Court on May 9, 2022 [ECF No. 25].

5. On June 27, 2022, all remaining individual Defendants filed their joinder to the

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<sup>1</sup> Defendant STATE OF NEVADA *ex rel.* NEVADA DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF PUBLIC AND BEHAVIORAL HEALTH (“DPBH”) was dismissed pursuant to the Court’s February 3, 2023, Order, for lack of subject matter jurisdiction. ECF No. 34.

1 March 14, 2022, Motion to Dismiss [ECF No. 30]. No response to the Joinder was filed.

2 6. On December 12, 2022, the Parties stipulated to stay discovery pending resolution of  
3 the various above-referenced motions [ECF No. 32], which stipulation the Court granted and ordered  
4 on December 27, 2022 [ECF No. 33].

5 7. On February 3, 2023, the Court entered its Order [ECF No. 34] with respect to all  
6 pending motions, ordering that (1) Defendant STATE OF NEVADA *ex rel.* NEVADA  
7 DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF PUBLIC AND  
8 BEHAVIORAL HEALTH (“DPBH”) be dismissed for lack of subject matter jurisdiction; (2)  
9 Plaintiffs’ second, third, and fourth state claims for relief under applicable state law be dismissed  
10 for lack of subject matter jurisdiction; and (3) Plaintiffs’ claims for damages under Article 1, § 8  
11 of the Nevada Constitution be dismissed.

12 8. Specifically, in dismissing the State of Nevada second, third, and fourth claims for  
13 relief, namely, (1) Wrongful Death under NRS 41.085; (2) Negligence; and (3) Negligent Hiring,  
14 Training, Selection, and Supervision; the Court noted that Plaintiffs “must raise [their] state tort  
15 claims in state court.”

16 9. On February 13, 2023, Plaintiffs filed their complaint in the Second Judicial District  
17 Court, Washoe County, Nevada, initiating Case No. CV23-00275 against the State of Nevada *ex rel.*  
18 DPBH and all remaining Defendants in the instant matter (the “Washoe Litigation”), asserting such  
19 state claims for relief as were dismissed herein, namely, for (1) Deliberate Indifference to a Serious  
20 Medical Need, Pursuant to Nevada Constitution, Article 1, § 6; (2) Wrongful Death under NRS  
21 41.085; (3) Negligence; and (4) Negligent Hiring, Training, Selection, and Supervision.

22 10. On March 29, 2023, the Attorney General accepted service on behalf of Defendants  
23 in the Washoe Litigation, further to which Acceptance of Service Defendants’ answer or responsive  
24 pleading in the Washoe Litigation will be required on or before May 28, 2023.

25 11. Although the claims for relief and legal theories now differ, the facts and events  
26 giving rise to the Washoe Litigation arise from and are related to the same transaction and occurrence  
27 presently before the bar.

28 12. No answer has yet to be filed by any Defendant in this matter.

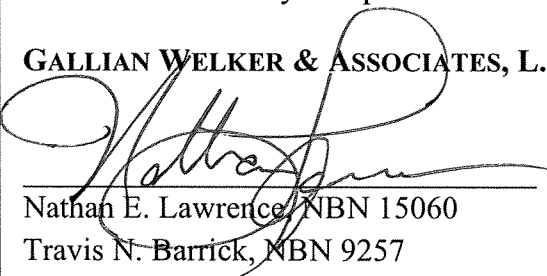
Further to the initiation of the Washoe Litigation and following colloquy between counsel, the Parties hereby submit this Joint Status Report and request that the Court continue its stay of discovery to allow further initial proceedings in and progression of the Washoe Litigation. As noted, the Washoe Litigation arises from and is related to the same transaction and occurrence presently before the bar, to wit, the death by suicide of Decedent Clinton Lee Swaim on December 10, 2019. Defendants, through counsel, have indicated that they anticipate moving to dismiss the Washoe Litigation, asserting arguments related to the applicable statute of limitations.

Depending on the outcome of the anticipated motion practice in the Washoe Litigation, the case will either be dismissed or be required to proceed concurrently with the instant matter. Should the latter scenario eventuate, for the benefit and economy of the Parties, their respective counsel, and both courts, it will be desirable to attempt to coordinate, to the greatest degree feasible, particularly considering the large volume of involved Parties, contemporaneous discovery across both matters to avoid or reduce undue discovery burdens. Accommodating this possible contemporaneity of discovery cannot be scheduled absent a procedural determination of the Washoe Litigation.

Accordingly, the Parties request that the Court continue its stay in this matter until the resolution of the Washoe Litigation motion practice, with a status check herein to be scheduled at the Court's convenience, approximately ninety (90) days after this Joint Status Report.

DATED this 19<sup>th</sup> day of April 2023.

**GALLIAN WELKER & ASSOCIATES, L.C.**

  
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DATED this 19<sup>th</sup> day of April 2023.

**AARON D. FORD, Attorney General**

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**ORDER**

For good cause appearing, it is hereby ordered that the stay of discovery is continued. A status check is hereby set for Monday, July 24, 2023 at 10 a.m., to be conducted by videoconference.

**IT IS SO ORDERED.**

DATED: April 20, 2023

  
UNITED STATES MAGISTRATE JUDGE

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